

# CITY OF NEWARK CITY COUNCIL

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: [city.clerk@Newark.org](mailto:city.clerk@Newark.org)

**City Administration Building**  
**7:30 p.m.**  
**City Council Chambers**

## AGENDA

**Thursday, June 22, 2017**

### CITY COUNCIL:

Alan L. Nagy, Mayor  
Mike Bucci, Vice Mayor  
Luis L. Freitas  
Sucy Collazo  
Michael K. Hannon

### CITY STAFF:

John Becker  
City Manager  
  
Terrence Grindall  
Assistant City Manager  
  
Susie Woodstock  
Administrative Services Director  
  
Sandy Abe  
Human Resources Director  
  
Soren Fajeau  
Public Works Director  
  
Jim Leal  
Police Chief  
  
David Zehnder  
Recreation and Community  
Services Director  
  
David J. Benoun  
City Attorney  
  
Sheila Harrington  
City Clerk

*Welcome* to the Newark City Council meeting. The following information will help you understand the City Council Agenda and what occurs during a City Council meeting. Your participation in your City government is encouraged, and we hope this information will enable you to become more involved. The Order of Business for Council meetings is as follows:

- |                                     |                         |
|-------------------------------------|-------------------------|
| A. ROLL CALL                        | I. COUNCIL MATTERS      |
| B. MINUTES                          | J. SUCCESSOR AGENCY     |
| C. PRESENTATIONS AND PROCLAMATIONS  | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS           | K. ORAL COMMUNICATIONS  |
| E. PUBLIC HEARINGS                  | L. APPROPRIATIONS       |
| F. CITY MANAGER REPORTS             | M. CLOSED SESSION       |
| G. CITY ATTORNEY REPORTS            | N. ADJOURNMENT          |
| H. ECONOMIC DEVELOPMENT CORPORATION |                         |

Items listed on the agenda may be approved, disapproved, or continued to a future meeting. Many items require an action by motion or the adoption of a resolution or an ordinance. When this is required, the words **MOTION**, **RESOLUTION**, or **ORDINANCE** appear in parenthesis at the end of the item. If one of these words does not appear, the item is an informational item.

The attached *Agenda* gives the *Background/Discussion* of agenda items. Following this section is the word *Attachment*. Unless "none" follows *Attachment*, there is more documentation which is available for public review at the Newark Library, the City Clerk's office or at [www.newark.org](http://www.newark.org). Those items on the Agenda which are coming from the Planning Commission will also include a section entitled *Update*, which will state what the Planning Commission's action was on that particular item. *Action* indicates what staff's recommendation is and what action(s) the Council may take.

**Addressing the City Council:** You may speak once and submit written materials on any listed item at the appropriate time. You may speak once and submit written materials on any item **not** on the agenda during **Oral Communications**. To address the Council, please seek the recognition of the Mayor by raising your hand. Once recognized, come forward to the lectern and you may, but you are not required to, state your name and address for the record. Public comments are limited to five (5) minutes per speaker, subject to adjustment by the Mayor. Matters brought before the Council which require an action may be either referred to staff or placed on a future Council agenda.

No question shall be asked of a council member, city staff, or an audience member except through the presiding officer. No person shall use vulgar, profane, loud or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the presiding officer for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.



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City Administration Building  
7:30 p.m.  
City Council Chambers

## AGENDA

Thursday, June 22, 2017

- A. ROLL CALL
  
- B. MINUTES
  - B.1 Approval of Minutes of the special City Council meeting of May 30, 2017 and the regular City Council meeting of June 8, 2017. (MOTION)
  
- C. PRESENTATIONS AND PROCLAMATIONS
  - C.1 Introduction of employees.
  
  - C.2 Commending Police Chief James Leal on his retirement. (COMMENDATION)
  
- D. WRITTEN COMMUNICATIONS
  
- E. PUBLIC HEARINGS
  - E.1 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 10 – from Public Works Director Fajeau. (RESOLUTION)
  
  - E.2 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 11 – from Public Works Director Fajeau. (RESOLUTION)
  
  - E.3 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 1 – from Public Works Director Fajeau. (RESOLUTION)

- E.4 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 2 – from Public Works Director Fajeau. (RESOLUTION)**
- E.5 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 4 – from Public Works Director Fajeau. (RESOLUTION)**
- E.6 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 6 – from Public Works Director Fajeau. (RESOLUTION)**
- E.7 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 7 – from Public Works Director Fajeau. (RESOLUTION)**
- E.8 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 13 – from Assistant City Engineer Fajeau. (RESOLUTION)**
- E.9 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 15 – from Public Works Director Fajeau. (RESOLUTION)**
- E.10 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 16 – from Public Works Director Fajeau. (RESOLUTION)**
- E.11 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 17 – from Public Works Director Fajeau. (RESOLUTION)**
- E.12 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 18 – from Public Works Director Fajeau. (RESOLUTION)**

- E.13 Hearing to consider adoption of Master Fee Schedule for Fiscal Year 2017-2018 – from Senior Accountant Lee. (RESOLUTION)**
- E.14 Hearing to consider a planned unit development and a conditional use permit, for a two-day night market special event to be held on July 7 and 8, 2017, in the NewPark Mall parking lot (APN: 901-0111-025). NewPark Mall is bounded, generally, to the north by Mowry Avenue, to the west by Cedar Boulevard, to the south by Balentine Drive, and to the east by Interstate 880 (Nimitz Freeway) – from Assistant Planner Bowab. (RESOLUTION)**

**F. CITY MANAGER REPORT**

(It is recommended that Items F.1 through F.10 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

**CONSENT**

- F.1 Adoption of the City of Newark’s Framework for Green Infrastructure Plan Development – from Assistant City Engineer Imai. (RESOLUTION)**
- F.2 Authorization for the City Manager to sign Task Order No. 13 to the Joint Powers Agreement with the City of Fremont for Paratransit Services – from Recreation and Community Services Director Zehnder. (RESOLUTION)**
- F.3 Approval of Investment Policy – from Accounting Manager Lee. (RESOLUTION)**
- F.4 Authorization for the Mayor to sign a three-year cooperation agreement for fiscal years 2018-2020 with Alameda County for participation in the Alameda County Urban County for the Community Development Block Grant (CDBG) Program – from Associate Planner Mangalam. (RESOLUTION)**
- F.5 Authorization for the purchase of two (2) 2017 Toyota Siennas as replacement vehicles for the Police Department from Freeway Toyota and outfitting by Telepath – from Maintenance Supervisor Connolly. (RESOLUTION)**

- F.6 Approval of plans and specifications, acceptance of bid, award of contract for the Base Bid and Additive Alternate Bid No. 2 to G. Bortolotto & Company, Inc. for Enterprise Drive Complete Streets and Road Diet, Project 1066, and amendment of the 2016-2018 Biennial Budget for Fiscal Year 2017-2018 – from Associate Civil Engineer Cangco. (MOTION)(RESOLUTION)**
- F.7 Approval of Contractual Services Agreements with various consultants for Building Inspection and Plan Check Services, Fuel Supply, Geologic and Geotechnical Engineering Services, and Traffic Signal and Street Light Maintenance – from Assistant City Engineer Imai. (RESOLUTION)**
- F.8 Amendment of the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Year 2016-2017 for General Revisions – from Administrative Services Director Woodstock. (RESOLUTION)**
- F.9 Establishment of the Fiscal Year 2017-2018 Appropriations Limit – from Accounting Manager Lee. (RESOLUTION)**
- F.10 Approval of plans and specifications, acceptance of bid, and award of contract to G. Bortolotto & Company, Inc. for the 2017 Asphalt Concrete Street Overlay Program, Project 1141 – from Associate Civil Engineer Tran. (MOTION)(RESOLUTION)**

#### **NONCONSENT**

- F.11 Approval of Citywide Parks Master Plan – from Assistant City Manager Grindall. (RESOLUTION)**

#### **G. CITY ATTORNEY REPORTS**

#### **H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS**

**J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY**

**K. ORAL COMMUNICATIONS**

**L. APPROPRIATIONS**

Approval of Audited Demands for the City Council meeting of June 22, 2017. (MOTION)

**M. CLOSED SESSIONS**

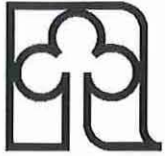
**M.1 Closed Session for Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, *Henneberry v. City of Newark, et al.*; United States District Court, Northern District of California, Case No. C13-05238 MEJ – from City Attorney Benoun.**

**M.2 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(2), Anticipated Litigation: One case – City Attorney Benoun.**

**N. ADJOURNMENT**

Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the City Council, will be made available for public inspection at this meeting and at the City Clerk's Office located at 37101 Newark Boulevard, 5<sup>th</sup> Floor, during normal business hours. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.

For those persons requiring hearing assistance, please make your request to the City Clerk two days prior to the meeting.



CITY OF NEWARK  
**CITY COUNCIL and  
PLANNING COMMISSION**

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: city.clerk@newark.org

**City Administration Building  
6:00 p.m.  
City Council Chambers**

**Minutes**

**Tuesday, May 30, 2017**

**Special Joint Work Session**

**A. ROLL CALL**

Mayor Nagy called the meeting to order at 6:00 p.m. Present were Council Members Hannon, Freitas, Collazo and Vice Mayor Bucci.

Planning Commissioners Fitts, Aguilar, Nillo, and Otterstetter were present. Planning Commissioner Bridges was noted absent.

**B. The City Council and the Planning Commission will hold a joint work session to receive an oral report on the status of the Greater NewPark Specific Plan.**

Assistant City Manager Grindall stated that the specific plan will provide detailed guidance on how the Greater NewPark area could be revitalized.

Ron Sissem, EMC Planning Group, provided a brief synopsis of the planning steps and stakeholder meetings that were taken in advance of this meeting. He stated that the specific plan will say what we want to have happen at NewPark Mall.

Ryan Call, ELS Architecture and Urban Design stated that the retail strategy was to make NewPark the first choice for customers. They want to create public spaces for community events, include housing in the right location, and increase the hours that the mall is used.

David Masenten stated that retail has changed, people are the attraction. He proposed a mixed use district, that is walkable with restaurants, shops and convenient parking.

In response to Council Member and Planning Commissioner questions, Assistant City Manager Grindall stated that staff understood the need for appropriate parking, they envision the housing to be rental properties, and increased employment at this location.

Ron Sissem stated that the next steps would be to complete the specific plan, prepare environmental documentation, and hold hearings before planning commission and city council. After the plan is adopted, individual projects may be considered.

Clark Morrison, Seritage Growth Properties land use attorney, stated that his client supports the plan. Seritage owns many Sears Properties and sees that single purpose malls do not work anymore.

In response to Council Member Collazo, Mr. Morrison stated that some Sears locations are reducing in size and limiting products. He stated that he could not speak on the future of the local Sears.

Joe Serra, SB Architects, stated that he is working with Seritage on their plan for the Sears parcel. They are testing out concepts in anticipation of specific plan approval.

Eric Dinenberg, Executive Vice President of Development for Rouse Properties, stated that they need to reinvent the mall. They have made improvements to the mall, engaged the services of Genslar Architects, and participated in stakeholder meetings.

Brian Harper, CEO of Rouse Properties, stated that retail is changing. He stated that this could be a top mixed-use development and this is a project they would like to do.

Vaki Mawema, Genslar Architects, design partner for Rouse Properties stated that they want to create a community at this location where people like to spend time. He presented their site plan with court yards, open spaces, housing, and walkable streets.

David Wang, Newpark Plaza, stated that they are preparing their property for the next phase of development. He suggested more residential on his property which he thought would be better for the entire project.

Allison Bogasich stated that she was concerned with the reduced parking spaces. She suggested using shuttles and buses on the ring road to decrease traffic congestion.

Assistant City Manager Grindall stated that the specific plan will include transportation.

Council Member Bucci requested that Mr. Wang continue participating in the specific plan process.

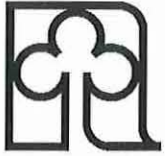
Council Member Hannon requested that staff focus on transportation and make it convenient for residents to go to the mall. He also requested that staff reach out to millennials for their input.

Council Member Collazo stated that she would like the residents at the new homes on Cedar Boulevard to be able to walk over to the mall. She also noted that if the AC Transit flex pilot program was successful, then it might be a permanent service.

## **C. ADJOURNMENT**

At 7:45 p.m., Mayor Nagy adjourned the meeting.





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City Administration Building  
7:30 p.m.  
City Council Chambers

## Minutes

Thursday, June 8, 2017

### A. ROLL CALL

Mayor Nagy called the meeting to order at 7:30 p.m. Present were Council Members Hannon, Collazo, Freitas, and Vice Mayor Bucci.

### B. MINUTES

#### B.1 Approval of Minutes of the regular City Council meeting of Thursday, May 25, 2017. **MOTION APPROVED**

Council Member Bucci moved, Council Member Hannon seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 4 AYES, 1 ABSTENTION (Collazo).

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Introduction of employees.

Mayor Nagy introduced: Aquatics Coordinator Samantha Fallon, Administrative Support Specialist II Katie Dennis, Assistant Building Official Mike Wayne, Human Resources Technician Helen Que-Garcia, Police Officer Christi Wallace and Police Officer Joe Rivera.

#### C.2 Proclaiming June as Elder Abuse Awareness Month.

Mayor Nagy presented the proclamation to Vanessa Baker of the Alameda County Adult Protective Services Agency and Lillian Rogers of the District Attorney's office

### D. WRITTEN COMMUNICATIONS

#### D.1 Appeal of Planning Commission Decision to approve an amendment to a planned unit development and a conditional use permit to rebuild an existing McDonald's restaurant at 35192 Newark Boulevard. **MOTION APPROVED**

Assistant City Manager Grindall recommended that the City Council dismiss the appeal since the Planning Commission decision is conditioned upon City Council approval. The hearing before the City Council is the next item on the agenda.

Council Member Freitas moved, Council Member Collazo seconded to, by motion, dismiss the appeal because a public hearing has already been scheduled under Item E.1 to consider amendments to P-74-1, a planned unit development, and U-74-1, a conditional use permit in order to rebuild an existing McDonald's restaurant at 35192 Newark Boulevard (APN: 92A-720-10). The motion passed, 5 AYES.

## **E. PUBLIC HEARINGS**

### **E.1 Hearing to consider an amendment to a planned unit development and a conditional use permit to rebuild an existing McDonald's restaurant at 35192 Newark Boulevard. RESOLUTION NO. 10641**

Assistant City Manager Grindall stated that Stantec Architecture, Inc., has filed an application to rebuild the McDonald's restaurant at 35192 Newark Boulevard with a 4,532 square foot building with 80 seats. The project includes a two-lane drive-thru layout, an additional customer order display and ordering kiosk; an improved menu board speaker; and separate payment and order pick-up windows.

The Planning Commission approved the application on May 9, 2017. Miller Starr Regalia, a law firm on behalf of the owners of the former Mi Pueblo grocery store, appealed the Planning Commission's action to the City Council. Staff has considered the points raised by the appellants and concluded that they are without merit.

The City Council discussed the visibility of the rear buildings, the project process, the trees on the property, and concerns about the upkeep of the surrounding parcels.

Mayor Nagy opened the public hearing at 8:08 p.m.

Tom Clark, representing the applicant, said that he had read the resolution and agreed to the conditions.

Mayor Nagy closed the public hearing at 8:14 p.m.

Dave Lanferman, stated that he worked with the City Attorney on the CEQA issues. This building replacement project fits within a CEQA exemption because it is unlikely to cause an environmental impact that requires further study. The appellant did not provide substantial evidence demonstrating an unusual circumstance to require an environmental study.

Acting City Attorney Brian Libow stated that the City Council may vote on this project, in the absence of the appellant, if adequate notice was sent to the appellant.

Assistant City Manager Grindall confirmed that the appellant was adequately noticed.

Council Member Bucci moved, Council Member Collazo seconded to by resolution, with Exhibit A, pages 1 through 26, approve an amendment to P-74-1, a planned unit development, and U-74-1, a conditional use permit to rebuild an existing McDonald's restaurant at 35192 Newark Boulevard (APN: 92A-720-10). The motion passed, 5 AYES.

## **F. CITY MANAGER REPORTS**

Council Member Bucci requested the removal of item F.5 for separate consideration.

Council Member Hannon moved, Council Member Collazo seconded, to approve Consent Calendar Items F.1 through F.4, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions and ordinances. The motion passed, 5 AYES.

## **CONSENT**

- F.1 Second reading and adoption of an ordinance repealing Newark Municipal Code Chapter 3.24 and adding a new Chapter 3.24 entitled Development Impact Fees. ORDINANCE NO. 498**
- F.2 Second reading and adoption of an ordinance repealing Urgency Ordinance No. 496-U and amending Newark Municipal Code Chapters 17.08 ("Definitions") and 17.16 ("R Residential Districts") pertaining to accessory dwelling units. ORDINANCE NO. 499**
- F.3 Authorization for the Police Chief to sign an amendment to the agreement with All City Management Services for the contracting of school crossing guards. RESOLUTION NO. 10642**
- F.4 Authorization for the City to apply for a California Governor's Office of Emergency Services (Cal OES) Law Enforcement Support Office (LESO) Grant for a specialized response vehicle. RESOLUTION NO. 10643**

## **NONCONSENT**

- F.5 Authorization to file a request to the Metropolitan Transportation Commission for the allocation of fiscal year 2017-18 Transportation Development Act Article 3 Pedestrian and Bicycle project funding for Citywide Accessible Pedestrian Ramps, Project 1167, and designation of the Alameda County Transportation Commission Bicycle and Pedestrian**

**Advisory Committee to serve as the Bicycle Advisory Committee for the  
City of Newark. RESOLUTION NO. 10644-10645**

Council Member Bucci stated that he served on the Alameda County Transportation Commission Bicycle and Pedestrian Advisory Committee (BPAC) and was excited to see them serving as the BPAC for the City.

Council Member Bucci moved, Council Member Collazo seconded to approve by resolutions: 1) authorize the filing of a request to the Metropolitan Transportation Commission for the allocation of fiscal year 2017-18 Transportation Development Act Article 3 Pedestrian and Bicycle project funding for Citywide Accessible Pedestrian Ramps Project No. 1167; and 2) designate the Alameda County Transportation Commission Bicycle and Pedestrian Advisory Committee to serve as the Bicycle Advisory Committee for the City of Newark. The motion passed, 5 AYES.

**G. CITY ATTORNEY REPORTS**

**H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS**

Mayor Nagy stated that he would adjourn the meeting in memory of Richard “Dick” Fullerton.

Council Member Collazo stated that she would be attending the bicycle event at Schilling Elementary School. She congratulated school graduates and their parents. She wished everyone a Happy Father’s Day. She announced that the Music at the Grove concert series begins on June 23, 2017 at Shirley Sisk Grove with Big Bang Beat.

Council Member stated that the Relay for Life movies begins this Saturday at Community Park. This week’s movie will be *Moana*.

Council Member Freitas suggested reviving the Yowza band with new employees.

Council Member Hannon thanked Recreation and Community Services Director Zehnder and city staff for the 54<sup>th</sup> annual dance review. The young people performing were outstanding.

**J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY**

**K. ORAL COMMUNICATIONS**

No one came forward to speak.

**L. APPROPRIATIONS**

**Approval of Audited Demands for the City Council meeting of June 8, 2017. MOTION APPROVED**

City Clerk Harrington read the Register of Audited Demands: Check numbers 111,120 to 111,277.

Council Member Freitas moved, Council Member Bucci seconded, to approve the Register of Audited Demands. The motion passed, 5 AYES.

**M. CLOSED SESSION**

**N. ADJOURNMENT**

At 8:35 p.m., Mayor Nagy adjourned the meeting in memory of Richard “Dick” Fullerton.

**C.1 Introduction of employees.**

**Background/Discussion** – The following employees were recently promoted in the Police Department and will be introduced at the City Council meeting: Captain Jonathan Arguello, Captain Chomnan Loth, Lieutenant Jolie Macias, Lieutenant Vince Kimbrough, Sergeant Brian Simon, and Sergeant Shannon Todd.

**C.2 Commending Police Chief James Leal on his retirement. (COMMENDATION)**

**Background/Discussion** – Police Chief James Leal is retiring after devoting 32 years to public service. The majority of that time, 29 years, was in service to the City of Newark. A commendation has been prepared and will be presented to Police Chief Leal at the meeting.